

**REMARKS**

By this amendment, claims 1-8, 10-14 and 16-33 are pending, in which no claims are currently amended or newly presented. Claims 9, 15, 34 and 35 were previously canceled.

The Office Action mailed December 16, 2005 rejected claims 1-8, 10-14 and 16-33 as obvious under 35 U.S.C. § 103 based on *Longo et al.* (US 5,912,959) in view of *Small* (US 5,513,117) and in further view of *Brown et al.* (US 5,333,180).

As an initial matter, Applicants wish to point out that the statement of rejection on page 3, item 5 of the Office Action inadvertently includes canceled claims 34 and 35.

Independent claims 1, 10 and 16 recite “wherein said pre-paid telephone calling card processing system plays, without input by a user to request the playback, said personal greeting upon use of the pre-paid telephone calling card by the user, and **maintains status of whether said personal greeting has been played.**” Independent claim 19 recites “the pre-paid telephone calling card processing system being further configured to **maintain status of whether said personal greeting has been played.**” Claims 27 and 31 recite “**maintaining status of whether said personal greeting has been played.**”

The Office Action (on page 4) previously applied *Small* for a supposed teaching of “without input by a user to request a playback,” after acknowledging the deficiencies of *Longo et al.* This time, the Examiner introduces yet another reference in an attempt to satisfy the above features -- that of *Brown et al.*

The Office Action, on page 4, refers to Table 700 and col. 10: 23-27 of *Brown et al.* for a supposed teaching of “maintain a status of whether said personal greeting has been played.” The cited passage states the following (*Emphasis Added*):

If a billing code does not have an assigned message status table 700, one is assigned to the billing code in step 207. DBU 125 will maintain and update the message status table 700 as required. In step 207 the call is also billed to the

billing code. **If message (status) is available, step 208, the SU offers to the caller the choice of either listening to status or recording a new message.**

If the **caller chooses to listen to status**, in step 209, SU 123 sequences through the appropriate status report for that billing code. There are five available status categories (see message status table 700) including:

1. messages **scheduled for delivery**, (701, 711)
2. messages **currently being delivered**, (702)
3. **delivered messages** and recipient response, (703,706, 721,722, 723, 724)
4. **unsuccessful deliveries**, (704, 726)
5. canceled messages (705, 752).

From the above passage, it is noted that the Examiner misapplies *Brown et al.* for a teaching of “**maintaining status of whether said personal greeting has been played.**” The cited passage merely pertains to “delivery status,” not whether the message has been played, but whether it has been delivered. A delivered message need not be played, and therefore, playing of the message cannot be not tracked using the 5 status categories of *Brown et al.* Therefore, there is no factual support for a disclosure of the claimed features.

Additionally, it is evident from the above passage that the user is required to provide input to receive the new message. Thus, the disclosure of *Brown et al.* teaches away from the claimed feature of “without input by a user to request a playback.” A reference should be considered as a whole, and portions arguing against or teaching away from the claimed invention must be considered. *Bausch & Lomb,, Inc. v. Barnes-Hind/Hydrocurve Inc.*, 796 F.2d 443, 230 USPQ 416 (Fed. Cir. 1986).

Furthermore, the Examiner seeks to combine *Longo et al.*, *Small* and *Brown et al.*, when in fact, the *Small* and *Brown et al.* systems are incompatible in their operations – i.e., teaches away from their combination. *Brown et al.* discloses (col. 1: 56-col. 2: 10) a voice message service is provided by a call message delivery system (CDS) which in response to an international voice call message delivery request from a caller, uses the called station number

digits to select a system announcement to be delivered with the call message to the called station. The country code digits of the called station number are used by CDS to select the language of that country which is to be used for the system announcement. An additional feature enables CDS to prompt the caller to select the appropriate language for the system announcement when, for example, several languages are prevalent in that country. In response to a call message delivery request from a caller, **CDS prompts the caller to select a system announcement to be delivered with the call message to the called station.** One further feature permits the caller to select to record his or her own announcement as the system announcement.

*Brown et al.* indeed requires input from the user to request playback, but yet *Small* is applied for the supposed teaching of “without input by a user to request a playback.” It is improper to combine references where the references teach away from their combination. *In re Grasselli*, 713 F.2d 731, 743, 218 USPQ 769, 779 (Fed. Cir. 1983).

Therefore, the proposed combination of *Longo et al.*, *Small* and *Brown et al.* is improper.


Even assuming the three references were properly combined based on some teaching or suggestion in the references, and assuming the modifications proposed in the Office Action were justified by additional teachings or suggestions found in the references, even the combination does not render the claimed invention obvious. Specifically, none the references taken alone, or in combination, teaches or suggests “maintaining status of whether said personal greeting has been **played**.” Therefore, the obviousness rejection is improper, and Applicants urge the indication that the pending claims 1-8, 10-14 and 16-33 are allowable.

Therefore, the present application, as amended, overcomes the rejection of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 425-8508 so that such issues may be resolved as expeditiously as possible.

Respectfully Submitted,

DITTHAVONG & MORI, P.C.

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Date

  
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